

June 21, 2001

The Honorable John D. Ashcroft
Attorney General of the United States
10th and Constitution Avenue, N.W.
Washington, D.C., 20530

Dear Mr. Attorney General:

I am writing to express my concern regarding the Justice Department's treatment of Jacqueline Jackson. As you may know, Ms. Jackson has been arrested for an act of civil disobedience -- trespassing on Navy property in Vieques, Puerto Rico.

It should not surprise you to learn of my general concern with regard to the Department's treatment of protestors in the Vieques matter. I believe that these protestors have been mistreated by the government and subject to sentences disproportionate to their misdemeanor offenses. I am hopeful that is not because of the political sensitivity of the issue, which as you know would be considered selective and unconstitutional prosecution.

However, the case of Ms. Jackson, as has been reported to me, is so extreme and shocking as to warrant my direct contact with you in order to mitigate what appears to be an out of control situation. As I understand it, Ms. Jackson was arrested Monday for misdemeanor trespassing. She was arraigned and subject to a \$3,000 bond which she refused to pay because of her moral beliefs and principles. While incarcerated, Ms. Jackson made a simple request for her reading glasses, a book and a change of clothing, all of which were rejected. She was told that if she placed \$50 in an account, she could acquire toiletries and other basic amenities. However, when she provided this amount in cash, she was told it needed to be by money order. When she complied with this request, she was told she could only provide the funds through the mail, which of course would take several days.

I just learned that each time she leaves her cell and returns, she is strip searched. Today, she was ordered to submit to a body-cavity search. She requested that it be conducted by medical personnel. Her request was refused, and she was threatened with solitary confinement, and I expect

she will be placed in such solitary confinement imminently. At present she is in a cell with a convicted cocaine dealer.

In my view, it is an outrage that Ms. Jackson – a person I know to be of unquestioned integrity – would be treated in the fashion that your U.S. Attorneys Office and U.S. Marshall's service has treated her. Her treatment is more akin to a violent and dangerous felon than an upstanding citizen committing a courageous act of civil disobedience.

First, I can conceive of no justification for not waiving bail, given her position in her home community and the nation and the fact that there is no possibility she would flee or cause harm to the community before her trial. Nor for that matter, can I comprehend why she would not be extended the common decency of allowing her to have a book, reading glasses and a change of clothes in jail, or permitting her to acquire basic toiletries from your commissary with her own funds.

But to me, the cavalier manner in which she is being strip searched and threatened with a body-cavity search and thrown into solitary confinement when she refused represents perhaps the last straw in a sorry saga of mistreatment and abuse. Again, there is no reason to subject her to the humiliation of a strip search or a search of her body cavities. She is no threat to anyone and there is no possibility she is carrying contraband. The only apparent reason to do this is to send a chilling message to future protestors.

As a matter of fact, just four months ago, the First Circuit Court of Appeals, in Roberts v. Rhode Island, 239 F.3d 107 (1st Cir., 2001) held that indiscriminate strip searches are unconstitutional where the corrections officers did not have any reasonable suspicion that the individual searches were reasonable. In a unanimous opinion by Judge Torruella, the court wrote "an administrative strip search policy routinely applied [in federal prison admittance] ... can not be justified simply on the basis of administrative ease in attending to security considerations." As I'm sure you know, the Justice Department is bound by First Circuit law in Puerto Rico.

Moreover, the efficacy and validity of these extreme body cavity searches has long been in dispute. For example, In 1979 the Supreme Court noted in Bell v Wolfish, 441 U.S. 520 (1979), that in the case of New York City's Metropolitan Correctional Center, there had only been one instance in the facility's entire history where contraband had been found during a body-cavity search.

I would not be surprised if your staff asserts that they had no choice in their treatment of Ms. Jackson because of the Department's regulations. If this is the case, I would suggest you consider revising these regulations -- particularly as they apply to minor misdemeanors -- , and would note that even Justice Department regulations are subject to the constraints of the Constitution, equal protection, and due process. In my view it is particularly ludicrous to dole out such harsh treatment in a civil disobedience context.

As a result of my concerns, General Ashcroft, I would like to receive from your office: (1) a general explanation and justification of the Department's actions toward Ms. Jackson; (2) an

explanation of why the Department believes Ms. Jackson is a threat to flee and cannot be released on her own recognizance; (3) an explanation of why the Department would not immediately permit Ms. Jackson access to her reading glasses, a book and a change of clothes, or permit her to acquire personal necessities and toiletries; and (4) an explanation of why the Department believes Ms. Jackson is a threat to carry contraband, and why the strip and body-cavity searches she is being subjected to and threatened with is not unconstitutional under Roberts. Given the excruciating ordeal Ms. Jackson is enduring, I would like to receive a written response from your office by no later than close of business tomorrow.

Thank you for your personal attention to this matter.

Sincerely,

John Conyers, Jr.
Ranking Member